

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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Statutory Review of the System	)	
for Regulating Rates and Classes	)	Docket No. RM 2017-3
for Market Dominant Products	)	
_____	)	

**Comments of eBay, Inc.**

(March 20, 2017)

eBay Inc. ("eBay") hereby respectfully submits these comments in response to Commission Order No. 3673 establishing the review required by 39 USC 3622(d)(3).

Founded in 1995 in San Jose, California, eBay is a global commerce leader including the Marketplace, StubHub and Classifieds platforms. eBay supports one of the world's largest and most vibrant marketplaces for discovering great value and unique selection, and together, we connect buyers and sellers around the world, empowering people and creating opportunity. In 2016, eBay supported \$84 billion in gross merchandise volume and today, 57% of our business is international. eBay empowers more than 167 million buyers globally on our marketplaces and hosts approximately 1.1 billion listings at any given time. Our marketplace also enables hundreds of thousands of US entrepreneurs, small businesses, as well as mid-size and large businesses, to reach customers around the world. eBay is facilitating a new kind of commerce that is

truly beneficial for Main Street businesses across America. eBay and the sellers in its communities rely upon the postal system, and support its strong, dependable, ubiquitous and affordable services.

## **I. eBay's Interests in This Proceeding**

eBay's communities of small businesses and entrepreneurs make use primarily of Competitive Products and Rates. While there is limited use of First Class retail services and insurance, the various Competitive parcel services used by our sellers are integral to their ability to stand up, manage and operate their businesses, succeed in the intensely competitive ecommerce world, and grow their businesses and the jobs those businesses provide. Without those services implemented efficiently and meeting the delivery standards guaranteed for them, and affordably priced, eBay's sellers and many other small businesses, in particular, simply could not compete; alternatives are too high-priced.

eBay would like to take this opportunity to commend the Postal Service for its treatment of parcels on service and pricing. While there is always room for improvement, overall the Postal Service is enabling an entire community to function in what is, again, an intensely competitive environment.<sup>1</sup> More than 6000 of our sellers

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<sup>1</sup> There are several items that eBay's sellers would like to see addressed, even though not necessarily within the scope of this proceeding. First, there remain disparate weight caps between First Class parcels bought at retail outlets, and those that are paid for remotely through eBay labels or otherwise. Those should be identical. Second, there are certain agreements with foreign posts, China's being one, where our sellers are concerned that foreign sellers are enabled to mail more inexpensively in the United States than rates under Competitive Products. If so, it is vital that that particular playing field be levelled. eBay sellers should not be disadvantaged by disparate parcel pricing in the United States. Third, it is imperative that USPS continue to improve its technological execution. Though having made great strides, there are still some almost impenetrable processes. One of those is obtaining insurance

shared with us their views on the USPS in advance of this proceeding. The prevailing views were that: 1) the Service is doing a good job and meeting expectations; but 2) prices are already high for many; and 3) any significant increases to prices or deterioration in services would be detrimental to small businesses.<sup>2</sup> In other words, so long as USPS maintains steadiness in products and operations, it will continue to be attractive to our very large seller base.

Nonetheless, eBay and its sellers are vitally concerned about the review launched in Docket No. RM 2017-3. This concern stems from two interrelated potential ramifications from the outcome of the review. First, to the extent that the review would lead to changes in the rate and classification setting system that would enable the Postal Service to impose steep rate increases, whether in one large increment or smoothed over several years, eBay is concerned that that would precipitate a serious escalation in volume departing the mail in the Market Dominant (“MD”) categories. Inasmuch as nearly 75% of mail volume and revenues still come from those categories<sup>3</sup>, any serious impact from larger rate increases risks destabilizing USPS to

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payments when packages are damaged or ruined en route. The process is so difficult that many of our sellers give up and simply absorb the cost; they do not receive the payments for which they obtained the insurance in the first place.

<sup>2</sup> Among the comments received, the following selection were more or less typical:

- *“I honestly do like the USPS, and hope they do not increase their rates to the point where people can’t afford to ship things. The cost is high enough as it is.”*
- *“An increase in USPS shipping rates will be detrimental to my business. I operate my business with a very low profit margin and cannot absorb an increase in my shipping cost. If there is an increase I will be forced to pass that increase along to my customers.”*
- *“I love the convenience & service of the usps , but prices continue to grow . making the need to seek out cheaper shipping possibilities.”*
- *“USPS has been my go to source for my shipping needs. It offers a convenient, reliable source for distributing product to my customers. Recent price increases have forced me to look at other carriers for a more economical resource, and I have begun to use these more economical services.”*

<sup>3</sup> USPS Fiscal Year 2017 Integrated Plan at 5.

the point that it would need either a drastic restructuring, deleterious service reductions, taxpayer support, or all three. None of these options is acceptable, let alone all.

Second, even if actual rate changes based on the review were not severe enough to force restructuring or a bailout, any acceleration in lost volume could well lead to pressure for greater contribution from Competitive Products. Already contributing a robust 16.5%<sup>4</sup> toward institutional costs, Competitive Products are holding up their end of the bargain for reliable service at affordable rates. However, as they stand, Competitive prices are near the limit of affordability for some, and past that limit for some others. Thus, any collateral impact from a decline in Market Dominant revenues, especially stimulated by a result from this rulemaking, could have the unintended consequences of reducing the competitiveness of our sellers, and forcing some out of the Postal Service or out of business.

Overall, Competitive revenues have swelled as, according to the Postal Service, it has sustained its market share as the market for these products has rapidly expanded.<sup>5</sup> This is in sharp contrast to the declining MD base, but would not continue if that decline sped up significantly and some of the difference in revenues were taken from Competitive products, as above.

Therefore, eBay's interests are directly implicated by the review in Docket No. RM2017-3, and we offer the following points for consideration by the Commission in its deliberations.

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<sup>4</sup> *Initial Comments of the U.S. Postal Service*, Docket No. RM 2017-1 at 18 (Jan. 23, 2017).

<sup>5</sup> *Id.* at 11.

## **II. The Current Market Dominant Rate and Classification Setting System is Functioning Well**

eBay believes the current rate and classification system has worked well during the ten years of its existence, and urges the Commission not to make precipitous or wholesale changes. It is our view that the current system has been amply “stress tested,” and has held up well under those stresses.

### **A. The Current System Has Achieved the Goals of PAEA**

To begin, a prime goal of Congress in the Postal Accountability and Enhancement Act was to “modernize” rate setting by simplifying it: making it easier, less expensive for all parties, especially the Postal Service, and more regular, certain, and without rate spikes to enable predictability. All of these constructs that add up to streamlining and simplification have been vindicated by the current system. This system enables the Postal Service to increase rates annually, receive virtually automatic approval of those rates so long as they do not exceed inflation, implement increases in, typically, ninety days from filing for them, and accomplish all that through a notice and comment proceeding.

From 1973 to 2006, the situation was vastly different. Typically, the Postal Service followed a three-year, boom-and-bust cycle to raising rates. It would seek a rate increase substantially beyond inflation, which often induced rate shock. But with no real competition, à la the internet and mobile today, that was a small or even non-consideration; there was no place for users to go. Upon approval of the new rates, the

Postal Service would be flush the first year, break even more or less the second, and operate well into the red in the third. It would then start the cycle all over again.

To achieve an increase required an effort that preoccupied huge resources from the Postal Service, private sector intervenors and the then-Postal Rate Commission and its staff. It occurred via a debilitating, highly expensive litigation-style process that took ten months, and often longer, to complete. We would note that that is precisely the type of process in which eBay sellers could not effectively participate; they are simply too small to have remotely enough resources for that. They would thus obviously be dramatically disadvantaged, both to the extent they might use any MD services, and through any spillover effect upon Competitive.

The Rate Commission would issue recommendations for rates for specific classes and categories, and then the Postal Governors would make the final decision on imposing new rates. Ultimately, from proposal to implementation of rates could take a year or more, creating a great deal of business uncertainty, particularly for small businesses, such as those ecommerce entrepreneurs and small businesses that use our platform..

All of these elements were cast aside or improved under the modernized system prescribed in PAEA and implemented by the Postal Regulatory Commission. The impact has been beneficial to the Postal Service, intervenors and the Commission,<sup>6</sup> as above, as well as small users of the system, including eBay's sellers.

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<sup>6</sup> The Commission's Annual Compliance Determination assures an in-depth review of costs and rates separate and apart from rate increase proceedings. Any flaws discovered can then be rectified for the next increase or over time.

A second goal of rate setting prescribed in PAEA, most notably in the requirement to limit increases to inflation (CPI-U), was to stimulate cost cutting and efficiencies in the postal system. That goal has been accomplished very well in the roughly \$14 billion per year savings USPS has managed.<sup>7</sup> The Service has rightfully earned plaudits for what would have been most impressive savings by any entity, public or private sector, let alone an institution that had never come close to such an achievement previously in its entire 242-year history.

Perhaps the key construct in achieving these goals has been the requirement that rate increases in any given year not exceed the change in the Consumer Price Index-Urban (CPI-U) for the preceding twelve months.<sup>8</sup> This rate “cap” has inspired confidence in the certainty and predictability of rates among mailers, and compelled the Postal Service to reduce its costs by restraining the impulse to raise rates to cover any shortfalls, as was the case with pricing under the PRA. Moreover, notwithstanding that during the recession and its aftermath, many mailing and supplying segments could not raise their prices at all, USPS was able to raise its prices each year at the rate of inflation. This was a great advantage for the Service.

eBay believes the performance of USPS under the cap has vindicated the foresight and wisdom of Congress in imposing it. We believe that the cap should and must remain in place to avoid a return to the uncertainty and unpredictability of rates, which is felt most acutely by small American businesses, much like and including many of those that use our platform. The cap should and must remain in place to avoid the

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<sup>7</sup> *Statement of Postmaster General Megan Brennan*, Oversight and Government Reform Committee, U.S. House of Representatives at 2 (February 7, 2017).

<sup>8</sup> 39 USC 3622(d)(1)(A)

resultant adverse effect upon businesses and mail volume, given the available alternatives in 2017. And the cap should and must remain in place to maintain the incentive for attaining further efficiencies within the Postal Service.

## **B. The Problem is Not the System; It's the Obligations**

The Postal Service balance sheet is vastly in the red, leading to its current financial predicament. The Postal Service calculates that amount to be \$96 billion.<sup>9</sup> This includes pensions, debt and, virtually uniquely, a mandate to prefund its retiree health care on a highly aggressive schedule.<sup>10</sup> That mandate could not be met: the Service has defaulted on five of its prescribed annual payments of more than \$5 billion for prefunding, for a total of more than \$33 billion.<sup>11</sup>

By contrast, its operations have cumulatively operated close to in the black over the ten years since PAEA was enacted.<sup>12</sup> This is notwithstanding the Great Recession and increasing diversion from the mail. This can be attributed to a number of factors: the ability to consistently and easily raise rates when others could not,<sup>13</sup> the costs the Service was able to reduce, and, importantly from eBay's perspective, its ability to respond to the explosion in ecommerce with capacity, reliability, affordability flexibility and, critically, its trademark (and mandated) universality in its parcel delivery operation. That has enabled USPS to capture significant market share among ecommerce

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<sup>9</sup> *Brennan Statement* at 7.

<sup>10</sup> 5 USC 8909a(d)(3)(A)

<sup>11</sup> *Brennan Statement* at 3.

<sup>12</sup> If the cumulative payments mandated under 5 USC 8909a(d)(3)(A) are excluded from the total losses of USPS, ten-year total losses decline to significantly less than \$10 billion, which includes other obligations and debt payments, and with surpluses in at least the last three years.

<sup>13</sup> For example, paper and printing prices have remained steady or even declined over this same period.



participants generally, and certainly eBay sellers, and boost its revenues in the category dramatically.<sup>14</sup>

It is also undeniable that the additional revenues derived from the exigency surcharge contributed to the operational financial steadiness of USPS. But, in eBay's view, that is further evidence that the current system works. When USPS faced what the Commission found was an extraordinary or exceptional circumstance in the Great Recession, it permitted the Service to recover revenues lost due to that once-in-eighty-years event through a surcharge of 4.3%. eBay would also point out that it is important to continue to recognize that the ending of the surcharge was not a revenue loss to USPS; it was merely the completion of the recovery of revenues lost during 2008 and 2009.<sup>15</sup>

The liabilities for obligations imposed upon USPS are, as the Service characterizes them, uncontrollable. However, that is tangential to whether the system has worked. In eBay's view, the correct measure is operations, and not the balance sheet.

If, however, the Commission were to determine that the balance sheet must be rectified, the consequences of recovering all those liabilities would be catastrophic. The 15 – 20% increase calculated by the Postal Service as necessary to do so, even if cushioned by a more gradual increase, would be sufficient to push a very large amount of volume out of the mail and create an even more threatening deficit and an existential crisis.

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<sup>14</sup> Annual Report of the U.S. Postal Service Fiscal Year 2016 at 26, showing multiple years' double-digit percentage increases in pieces and revenues, to the point that shipping services now account for nearly 25% of USPS operating revenues.

<sup>15</sup> Postal Regulatory Commission Order No. 1926, Docket R2013-11 at 1 (December 24, 2013).

And that directly implicates one of eBay's core concerns. Pointing to the six thousand notes of feedback we received from the eBay community, it is clear that Competitive rates must remain stable. With a recovery of the size that could result from revising the system to permit USPS the flexibility to do so, causing further flight from the mail, the risk for, and pressure on, the successful Competitive Products to contribute much more heavily to institutional costs will dramatically and inevitably increase. Any such increase would put our sellers and their participation in the postal system at a severe disadvantage, leading to damaged businesses, lost jobs and, likely, an abrupt retrenchment of the bright spot on the USPS financial horizon: ecommerce shipments. Ecommerce only works and thrives so long as physical delivery works and thrives.

#### **IV. Conclusion**

eBay will not offer comment on the framework and the meeting of specific objectives. Again, we believe the current system is overall working quite well, judging strictly from results. Our primary focus is on the implications for our sellers and entrepreneurs, and any consequential impact on Competitive Products in rates or service from disruption of the rate cap or other major changes to the Market Dominant rate setting system.

In light of the foregoing, eBay and its sellers urge the Commission to find that the current system is serving the needs of all stakeholders in the system and the public, and does not need substantial adjustment, let alone replacement. But for the obligation to prefund retirees health care through a virtually unique mandate, the goals foreseen by

the Congress in PAEA for the rate and classification setting system, and as carried out through the system devised by the Commission, have been met, directly for Market Dominant Products and indirectly for Competitive Products. In sum, we do not believe this system is broken, and therefore should not be fixed.

Respectfully submitted,

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